

**DEPARTMENT OF THE ARMY**  
**Wilmington District, Corps of Engineers**  
**Post Office Box 1890**  
**Wilmington, North Carolina 28402-1890**  
(<http://www.saw.usace.army.mil/wetlands/regtour.htm>)

Action ID No. 200330353

24 January 2003

**PUBLIC NOTICE**

**Kaplan Holding, Inc., Attention: Mr. David Kaplan, 725 Sunrise Valley Drive, Boone, North Carolina 28607, has applied for a Department of the Army (DA) permit to DISCHARGE FILL MATERIAL INTO FLAT BRANCH, PINE KNOB BRANCH, UNNAMED TRIBUTARIES AND ADJACENT WETLANDS FOR THE CONSTRUCTION OF THE HEAVENLY MOUNTAIN RESORT GOLF DEVELOPMENT** located 11.5 miles south of the intersection of U.S. 421 and Elk Creek Road on Elk Creek Road in Watauga County, North Carolina.

The following description of the work is taken from data provided by the applicant and from observations made during an onsite visit by a representative of the Corps of Engineers. Kaplan Holding Inc., (Kaplan) is planning to construct the golf course development on an approximate 1,200-acre tract of land just below the Blue Ridge Escarpment in the Elk Creek subbasin of the Yadkin River Basin. The development will consist of an 18-hole public golf course and driving range, hotel resort area, and surrounding residential community. The tract contains three named drainages (Pine Knob Branch, Flat Branch, and Swift Ford Branch) characterized by steep, narrow, V-shaped valleys. Streams within the project area are generally small, steep, and predominantly stable cobble dominated and bedrock-influenced channels. Drainage areas of streams in the project area range from less than 10 acres to 140 acres. Wetlands are typically linear features found adjacent to streams within the riparian zone near springs or in abandoned stream channels. The entire site lies within an area designated as Outstanding Resource Waters by the North Carolina Department of Environment and Natural Resources. The proposed development would impact 2,360 linear feet of stream channel and 0.47 acre of adjacent riparian wetlands in the Pine Knob Branch and Flat Branch drainages. Within the Pine Knob drainage, 390 linear feet of perennial and intermittent stream channel and 0.12 acre of adjacent wetland would be filled for the construction of hole 5. In the Flat Branch drainage, the construction of holes 4, 9, 18, and the driving range would result in the discharge of fill material into 1,310 linear feet of perennial and intermittent stream channel and 0.10 acre of adjacent wetland. Channel relocations within these areas would result in the creation of 1,395 linear feet of stream channel. Also within the Flat Branch drainage, 460 linear feet of perennial stream channel and 0.25 acre of wetland would be impacted by the construction of an irrigation pond at hole 8. Approximately 90 feet of the existing channel would be filled and 370 linear feet of channel and wetlands would be inundated. The pond would be fed through a diversion pipe from a relocated channel on the west side of the valley. Specific stream and wetland impacts along with plans showing the proposed work are included with this Public Notice.

Impacts to waters and wetlands have been reduced from over 12,000 linear feet and one acre of wetlands as proposed at the project's inception. This has been accomplished through golf course redesign, infrastructure planning, and utilization of spanning structures for golf cart and roadway crossings. The number of ponds has been reduced from eight on-line ponds in the original plan to one off-line pond in the current proposal. No direct impacts to waters of the U.S. are proposed in conjunction with residential or resort building construction.

The applicant proposes to mitigate for impacts through the following: (1) relocation of approximately 1,965 linear feet of stream channel; (2) establishment of a 30 feet wide buffer from top of bank on each side of relocated channels; and, (3) creation of 0.28 acre of riparian wetlands adjacent to relocated streams at holes 4, 8, 9, and 18.

The State of North Carolina will review this public notice to determine the need for the applicant to obtain any required State authorization. No Department of the Army (DA) permit will be issued until the coordinated State viewpoint on the proposal has been received and reviewed by this agency, nor will a DA permit be issued until the North Carolina Division of Water Quality (NCDWQ) has determined the applicability of a Water Quality Certificate as required by PL 92-500.

This application is being considered pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344). Any person may request, in writing within the comment period specified in the notice, that a public hearing be held to consider this application. Requests for public hearing shall state, with particularity, the reasons for holding a public hearing.

The District Engineer has consulted the latest published version of the National Register of Historic Places for the presence or absence of registered properties, or properties listed as being eligible for inclusion therein, and this worksite is not registered property or property listed as being eligible for inclusion in the Register. Consultation of the National Register constitutes the extent of cultural resource investigations by the District Engineer, and he is otherwise unaware of the presence of such resources. Presently, unknown archeological, scientific, prehistorical, or historical data may be lost or destroyed by work under the requested permit.

The District Engineer, based on available information, is not aware that the proposed activity will affect species, or their critical habitat, designated as endangered or threatened pursuant to the Endangered Species Act of 1973.

The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts which the proposed activity may have on the public interest requires a careful weighing of all those factors which become relevant in each particular case. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision should reflect the national concern for both protection and utilization of important resources. All factors which may be relevant to the proposal must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values,

fish and wildlife values, flood hazards and flood plain values (in accordance with Executive Order 11988), land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving the placement of dredged or fill materials in waters of the United States, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agencies' 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria, a permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials; Indian Tribes and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

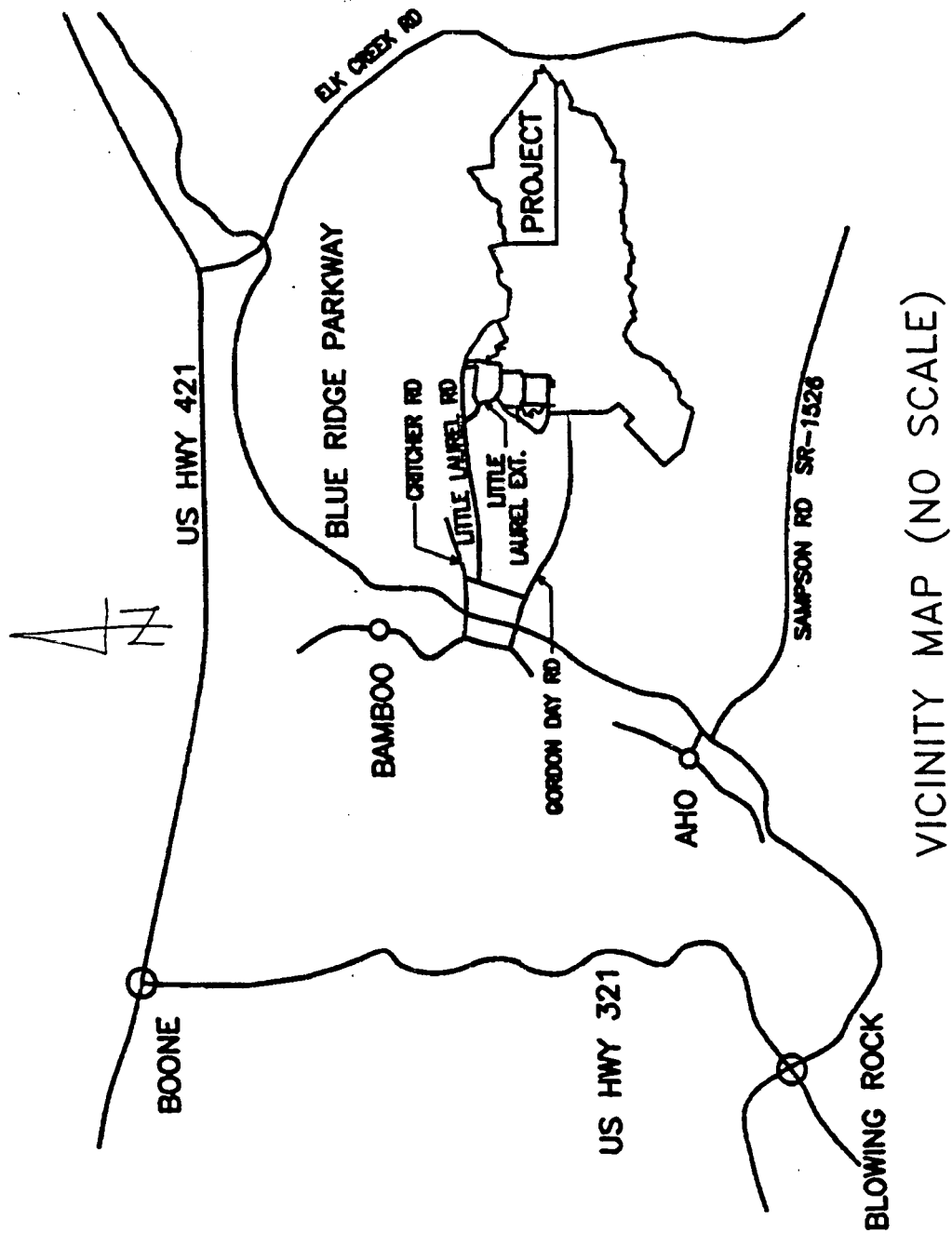
Generally, the decision whether to issue this Department of the Army (DA) permit will not be made until the North Carolina Division of Water Quality (NCDWQ) issues, denies, or waives State certification required by Section 401 of the Clean Water Act. The NCDWQ considers whether or not the proposed activity will comply with Sections 301, 302, 306, and 307 of the Clean Water Act. The application and this public notice for the Department of the Army (DA) permit serves as application to the NCDWQ for certification.

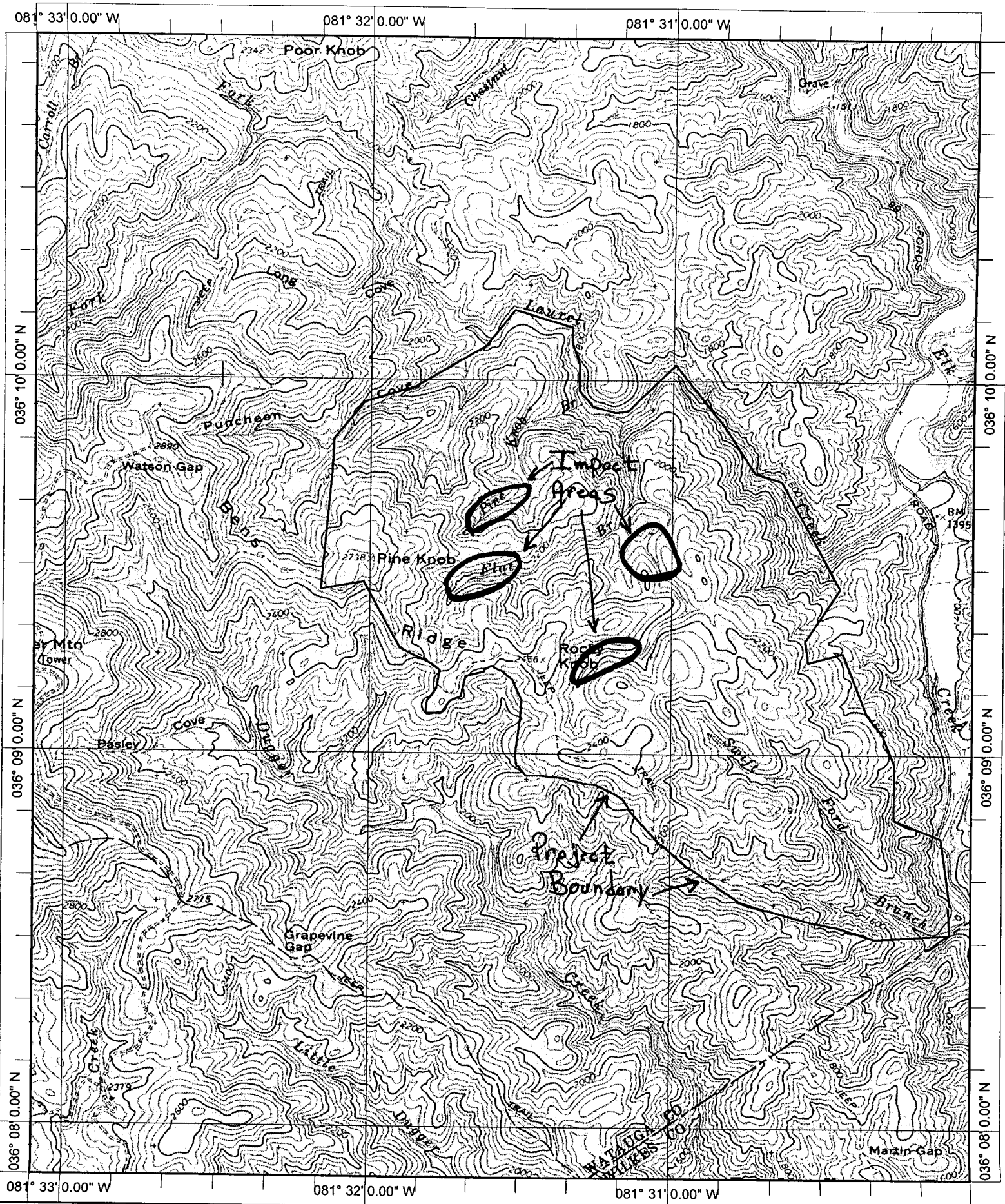
Additional information regarding the Clean Water Act certification may be reviewed at the offices of the Environmental Operations Section, North Carolina Division of Water Quality (NCDWQ), Salisbury Street, Archdale Building, Raleigh, North Carolina. Copies of such materials will be furnished to any person requesting copies upon payment of reproduction costs.

The North Carolina Division of Water Quality (NCDWQ) plans to take final action in the issuance of the Clean Water Act certification on or after February 14, 2003.

All persons desiring to make comments regarding the application for Clean Water Act certification should do so in writing delivered to the North Carolina Division of Water Quality (NCDWQ), 1621 Mail Service Center, Raleigh, North Carolina 27699-1621, February 14, 2003, Attention: Mr. John Dorney.

Written comments pertinent to the proposed work, as outlined above, will be received in this office, Attention: Mr. Timothy Smith, until 4:15 p.m., February 21, 2003, or telephone (828) 271-7980 ext. 8.





Name: DEEP GAP  
Date: 2/8/102  
Scale: 1 inch equals 2000 feet

Location: 036° 09' 23.4" N 081° 31' 33.1" W

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**TABLE 1**  
**Stream Impact Table**

Hole	Stream	Reach	Type	Fill	Pipe	Flood	Total Impact	On-Site Relocation
4	F.B.	P1	B	200	0	0	200	230
4	F.B.	Int-3	A	0	200	0	200	0
5-U	P.K.	int-10	Aa+	0	130	0	130	0
5-U	P.K.	Int-9	Aa+	0	60	0	60	0
5-U	P.K.	P4	A	0	200	0	200	0
8	F.B.	P3	B	0	90	370	460	570
9	F.B.	Int-5/6	A	650	0	0	650	800
18	F.B.	P5	B	400	0	0	400	365
D. Range	F.B.	P5	A	60	0	0	60	0
<b>Total</b>				<b>1310</b>	<b>680</b>	<b>370</b>	<b>2360</b>	<b>1965</b>

Stream	Fill	Pipe	Flood	Total	Relocation
Flat Branch Perennial	660	90	370	1120	1165
Flat Branch Intermittent	650	200	0	850	800
<b>Total</b>	<b>1310</b>	<b>290</b>	<b>370</b>	<b>1970</b>	<b>1965</b>

Stream	Fill	Pipe	Flood	Total	Relocation
Pine Knob Perennial	0	200	0	200	0
Pine Knob Intermittent	0	190	0	190	0
<b>Total</b>	<b>0</b>	<b>390</b>	<b>0</b>	<b>390</b>	<b>0</b>
<b>TOTAL</b>	<b>1310</b>	<b>680</b>	<b>370</b>	<b>2360</b>	<b>1965</b>

**TABLE 2**  
**Wetland Impact and Mitigation**

**Wetland Impacts**

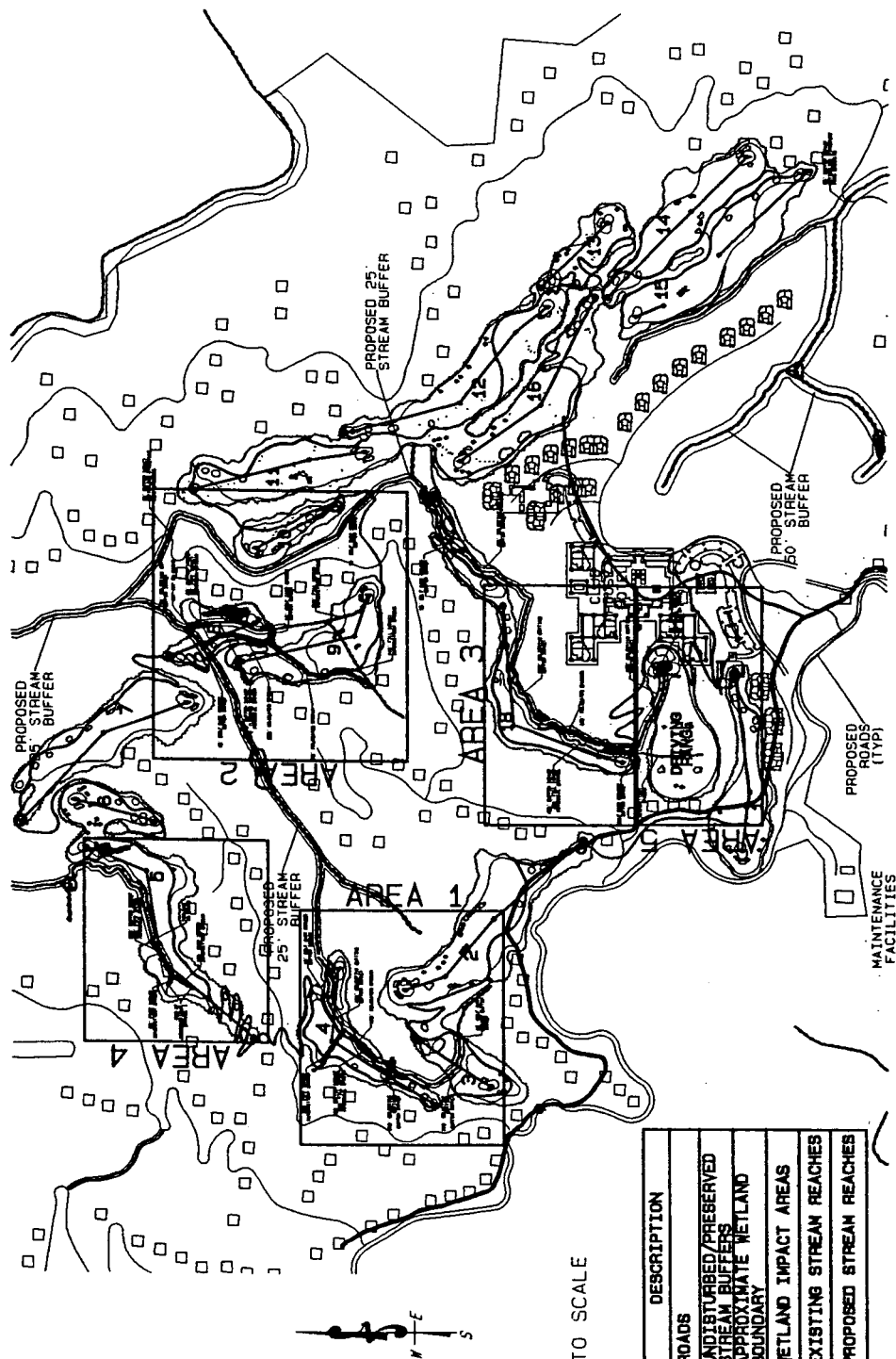
Name	Stream	Hole	Area
Wet 2	P3	8	11000
Wet 3	P4	5	5000
Wet 4	P5	18	3000
Wet 5	P5	DR	1500
<b>Total</b>			<b>20500</b>

**Wetland Mitigation**

Stream	Hole	Total Area
Flat Br.	4	500
Flat Br.	8	4500
Flat Br.	9	2400
Flat Br.	18	4700
<b>Total</b>		<b>12100</b>

NOTE: Wetland mitigation will occur in the riparian areas adjacent to proposed restoration reaches.

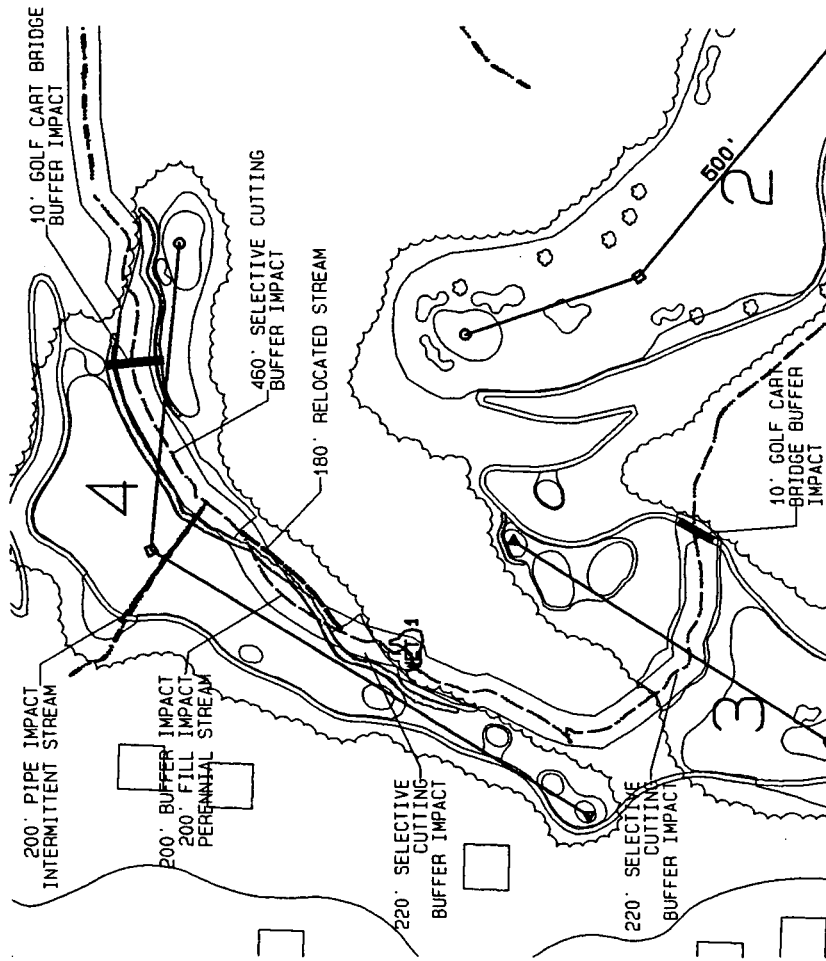
# HEAVENLY MOUNTAIN RESORT PROJECT AREA



NOT TO SCALE

SYMBOL	DESCRIPTION
	ROADS
	UNDISTURBED/PRESERVED STREAM BUFFERS
	APPROXIMATE WETLAND BOUNDARY
	WETLAND IMPACT AREAS
	EXISTING STREAM REACHES
	PROPOSED STREAM REACHES

# HEAVENLY MOUNTAIN RESORT AREA 1

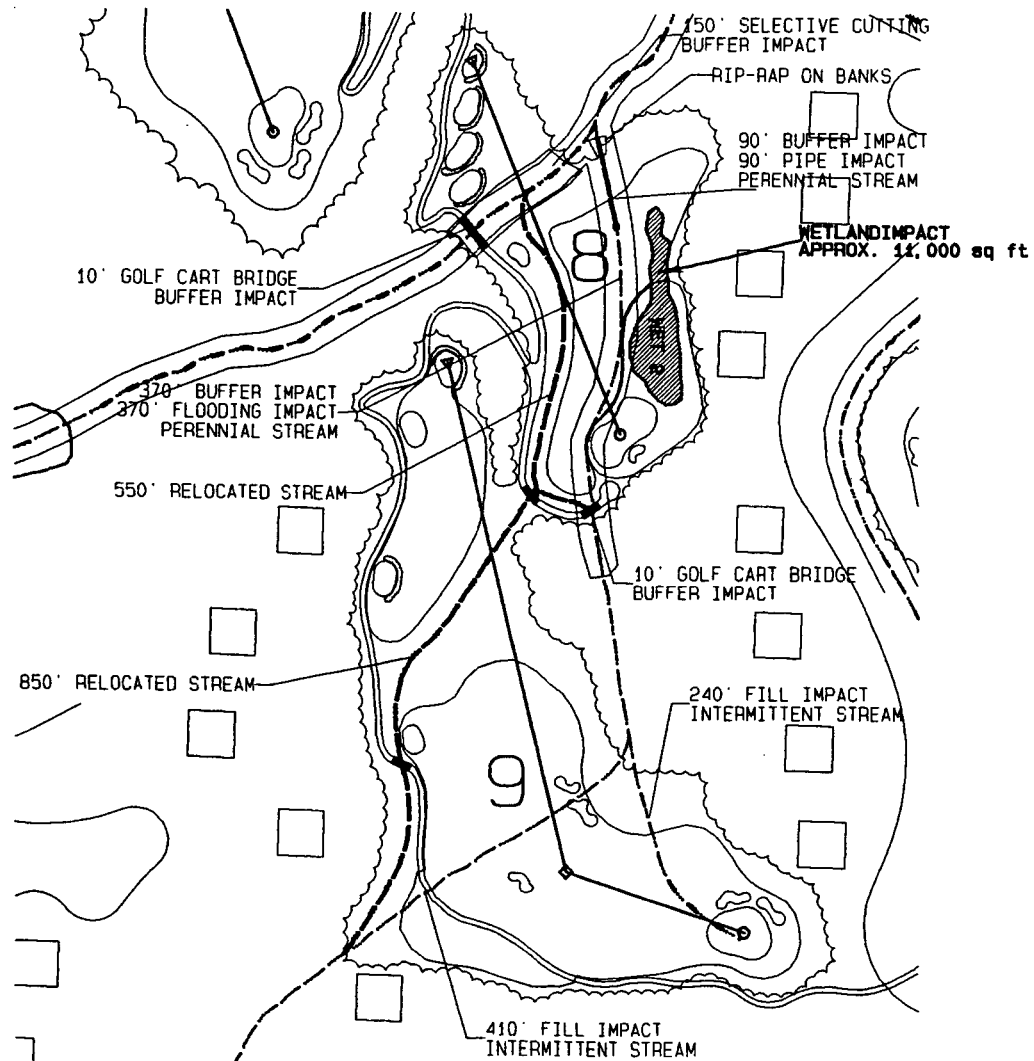


NOT TO SCALE

SYMBOL	DESCRIPTION
[Symbol]	ROADS
[Symbol]	UNDISTURBED/PRESERVED
[Symbol]	WETLAND BOUNDARY
[Symbol]	WETLAND IMPACT AREAS
[Symbol]	EXISTING STREAM REACHES
[Symbol]	PROPOSED STREAM REACHES



# HEAVENLY MOUNTAIN RESORT AREA 2



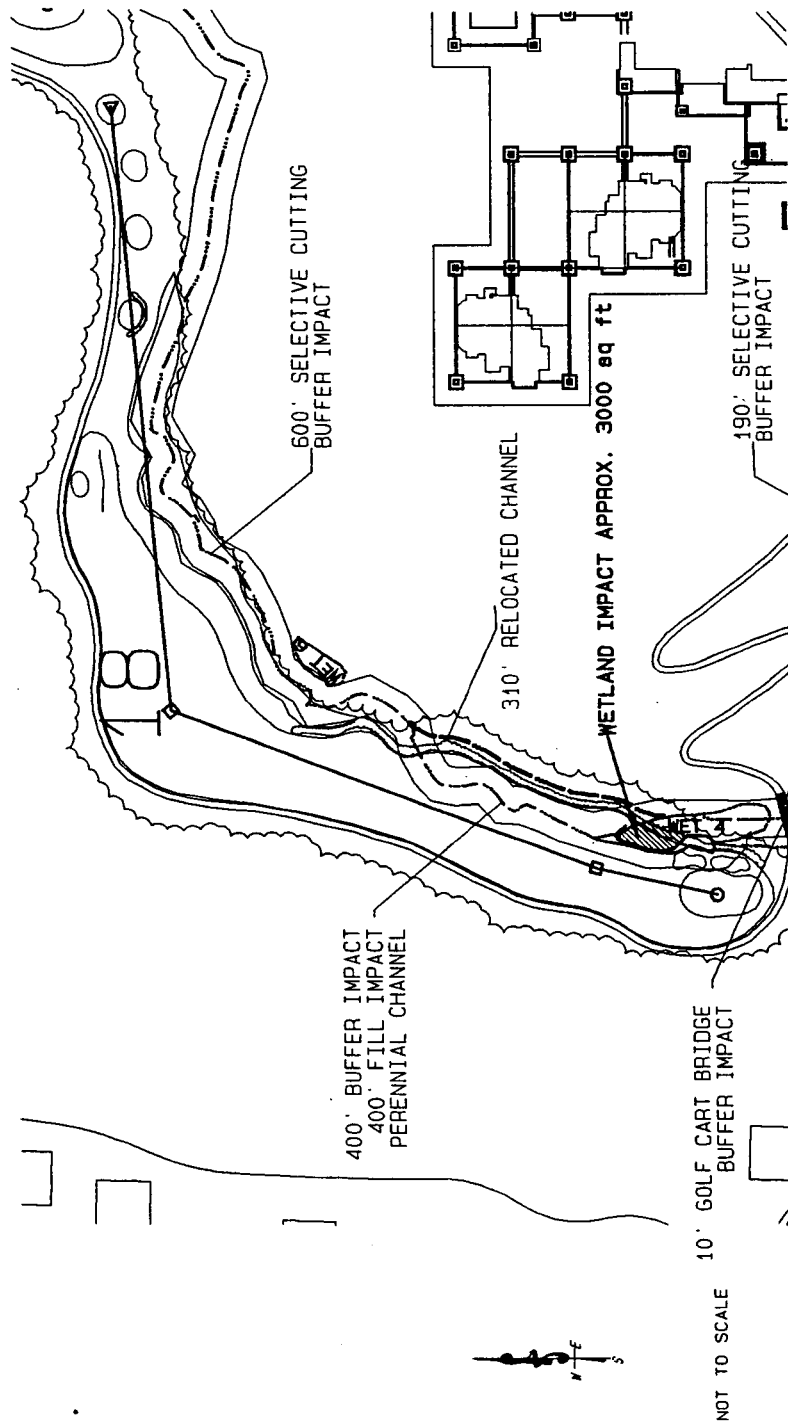
NOT TO SCALE

SYMBOL	DESCRIPTION
	ROADS
	UNDISTURBED/PRESERVED STREAM BUFFERS
	APPROXIMATE WETLAND BOUNDARY
	WETLAND IMPACT AREAS
	EXISTING STREAM REACHES
	PROPOSED STREAM REACHES



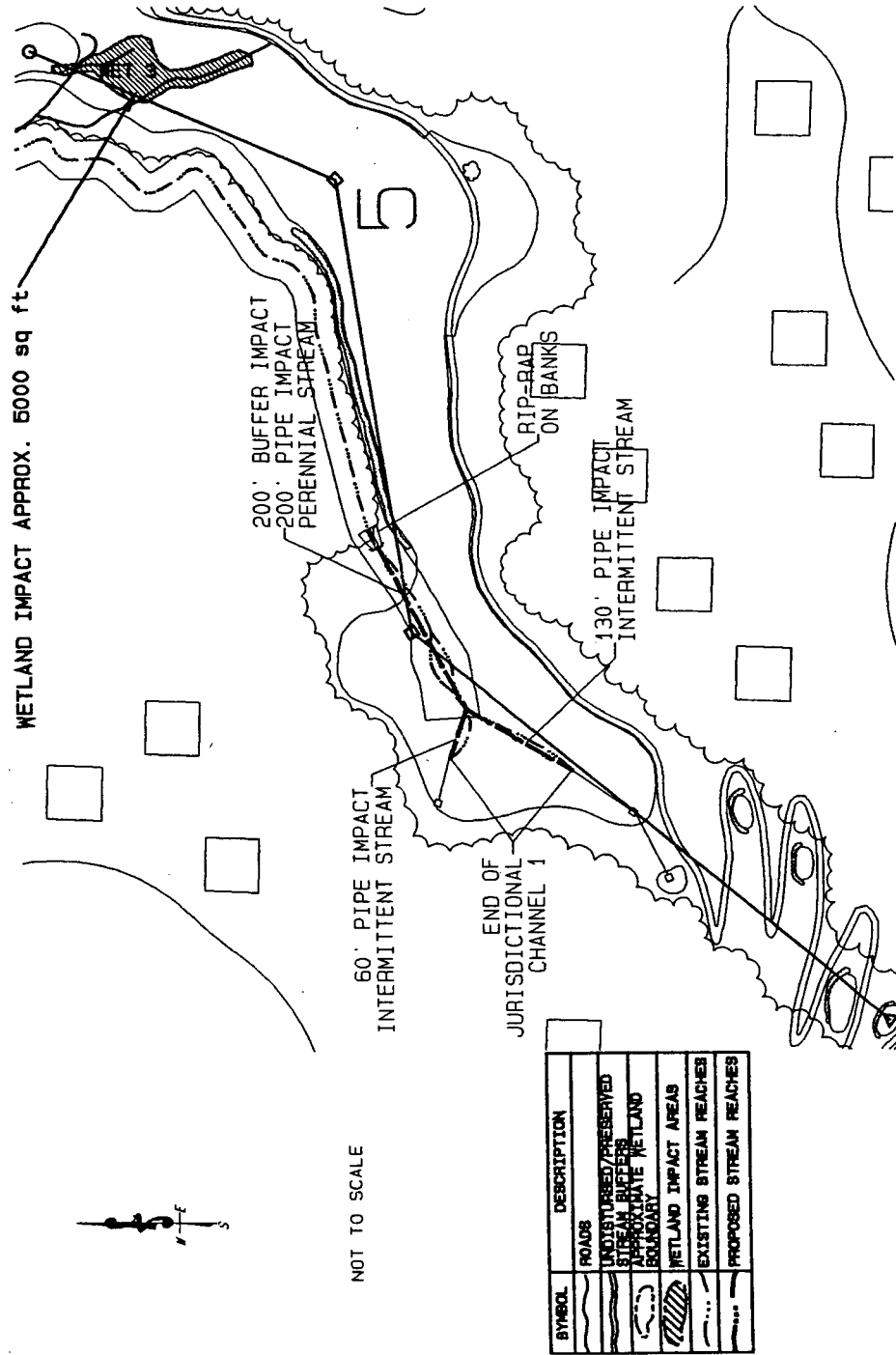
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# HEAVENLY MOUNTAIN RESORT AREA 3



SYMBOL	DESCRIPTION
	ROADS
	UNDISTURBED/PRESERVED STREAM BUFFER
	APPROXIMATE WETLAND BOUNDARY
	WETLAND IMPACT AREAS
	EXISTING STREAM REACHES
	PROPOSED STREAM REACHES

# HEAVENLY MOUNTAIN RESORT AREA 4



# HEAVENLY MOUNTAIN RESORT AREA 5

